

# ***I. Board Governance Procedures***

Per ARS 41-1091 B: This substantive policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona administrative procedure act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes section 41-1033 for a review of the statement.

## **A. Composition of the Board**

(ARS §15-2001) The Board consists of 9 members appointed by the Governor and confirmed by the Senate to fill 4-year terms. The Board members should be of approximate geographic balance, with approximate balance of public and private members. The following are the descriptions for each:

1. An elected member of a school district governing board with knowledge and experience in finance.
2. A private citizen who represents an organization of taxpayers.
3. A member with knowledge and experience in school construction.
4. A registered professional architect who has current knowledge and experience in school architecture.
5. A member with knowledge and experience in school facilities management in a public school system.
6. A member with knowledge and experience in demographics.
7. A teacher who currently provides classroom instruction.
8. A registered professional engineer who has current knowledge and experience in school engineering.
9. An owner or officer of a private business.
10. The Superintendent of Public Instruction shall designate a representative to serve as an advisory nonvoting member of the SFB.

The Chairman is appointed by the Governor from the voting members. All members of the Board are subject to conflict of interest statutes (Title 38, Ch.3, Art. 8). Members of the Board who are employed by government entities are not eligible to receive compensation. The unexcused absence of a member for more than 3 consecutive meetings is justification for removal from the Boards. All appointees must attend a Public Service Orientation. (ARS §38-592)

## **B. Officers and their Duties (Adopted September 1998)**

The Board has two officers – a Chair and a Vice-Chair. The Chair is appointed by the Governor as provided by statute. The Chair appoints a Vice-Chair. The Governor will appoint the Chair by the June meeting of the Board prior to the beginning of each fiscal year. The term of office shall begin in July and last for one year, or until a successor is duly appointed. Officers may be re-appointed to serve an additional term or terms.

The Chair shall preside over the meetings of the Board and perform such other duties as designated by the Board. The Chair serves as an ex-officio member of all committees of the

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Board. The chairperson will work with the executive director to prepare board meeting agendas, preside at board meetings, appoint committees and committee chairpersons, sign official documents on behalf of the Board, and may represent the Board in public and official capacities as designated by the Board. The Chair is the official spokesman on behalf of the Board on matters coming before the Board.

In the absence of the Chair, the Vice-Chair shall preside over meetings of the Board. If the Chair and Vice-Chair are both absent for a meeting, the Board shall elect a member to preside over that meeting.

If a vacancy occurs in the office of the Chair, the Vice-Chair shall assume the duties of the Chair until such time as the Governor appoints a new Chair to complete the unexpired term. Vacancies occurring in the office of the Vice-Chair shall be filled by the Governor at any regular or special meeting, for the unexpired term of the office.

### **C. Duties of the Board**

Per ARS §15-2002 the SFB shall:

1. Assess facilities and equipment to approve distribution of grants.
2. Develop database to administer building renewal distributions.
3. Inspect every school building once every 5 years for compliance with adequacy standards and routine preventative maintenance.
4. Review population projections for new construction monies.
5. Certify new school facilities meet building adequacy standards.
6. Develop prototype elementary and high school designs. Review design differences between high & low performing schools. Review ADE survey of parent quality rating.
7. Develop forms and procedures for carrying out requirements (See *Exhibit Item I.C.* for forms developed by staff for reporting District Square Footage information.).
8. Review requests submitted by a school district.
9. Submit an annual report by Dec. 15 to Speaker of House, Senate President, Supt. of Public Instruction, Director of AZ State Library, Archives, and Public Records which includes:
  - i. Description of amount of monies distributed in previous fiscal year.
  - ii. List of each capital project that received money
  - iii. Summaries of findings and conclusions, building maintenance inspection
  - iv. Common design elements in highest performing schools and evaluation of parent quality rating.
10. Report to JCCR (Joint Committee on Capital Review) by Dec.1 the amount necessary for the fiscal year following the current year. By January 1, report transaction privilege tax to be credited for the following year.
11. Adopt minimum facility guidelines, including those for the Arizona State Schools for the Deaf and Blind (ASDB).
12. Report amounts necessary for schools for deaf and blind for legislative appropriation.
13. By January 1, provide the Governor's Office of Strategic Planning and Budgeting and the Joint Legislative Budget Committee a 5-year strategic plan for the budget unit per ARS §35-222

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14. By October 15, provide information to JCCR of proposed construction schedule and new construction cost estimates for the following fiscal year.
15. Per ARS §15-2041, by December 31, provide a report to the Governor and legislative leadership comparing certain measurable components of construction projects that have utilized project management services and pre-construction services with projects that have not utilized those services. School districts, project management firms and construction management firms are required to provide information needed for the report.

### **D. Board Meetings (Adopted September 1998)**

Unless otherwise agreed upon by a majority of the Board, meetings shall be held on the first Thursday of the month except in July. If the Chair deems there is insufficient business to justify a monthly meeting, that meeting may be canceled.

The Chair or any three (3) members of the Board may call a special meeting of the Board at any time.

A quorum must be present to hold a meeting. A quorum consists of a majority of the members (5). At each meeting, an Attorney General is present to assist with legal questions and ensure we adhere to the public meeting guidelines. If there is a dispute on the conduct of the meeting we adhere to Robert's Rules. Questions can be directed to the Director, Board Chairman or the Attorney General's office.

The unexcused absence of a member for more than three consecutive meetings is justification for removal by a majority vote of the board. If the member is removed, notice shall be given of the removal pursuant to section ARS §38-292.

### **E. Agenda Preparation**

The Chair and the Executive Director shall develop an agenda for each Board meeting. Any member of the Board may submit an item to the Chair for placement on the agenda no later than 21 days prior to the Board meeting. Any person other than a Board member wishing to have an item place on the agenda shall submit a written request to the Executive Director no later than 21 days prior to the Board meeting. The Executive Director may choose not to place an item submitted by a person other than a Board member on the agenda. A sample agenda is included in *Exhibit Item IE*.

To address the Board regarding an agenda item, any member of the public may submit a written request to be heard prior to the beginning of the meeting. Public participation forms will be provided, along with copies of the meeting agenda.

A "Call to the Public" is also held at the end of each meeting for items not on the agenda. During this time the public may address the Board, though the Board cannot respond to items brought before them at this time.

### **F. Committees (Adopted September 1998)**

The Chair or a majority of the Board may establish such ad hoc or special committees, as deemed necessary or advisable. The Chairperson shall appoint the membership of such committees, which may include members of the Board and shall designate the matters to be considered by

said committees. Unless otherwise authorized by the Board, all such committees shall act as advisory bodies to the Board and report their recommendations to the Board.

## **G. Board Member Reimbursement and Compensation Policy and Procedures**

By statute, Board members are entitled to payment for attending Board meetings and reimbursement for related expenses.

ARS §15-2001(G) Members of the board who are employed by government entities are not eligible to receive compensation. Members of the board who are not employed by government entities are entitled to payment of one hundred fifty dollars for each meeting attended, prorated for partial days spent for each meeting, up to two thousand five hundred dollars each year. All members are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2. These expenses and the payment of compensation are payable to a member from monies appropriated to the board from the new school facilities fund.

ARS § 38-622. Authorization for travel; claims

A. When the official duties of a public officer, deputy or employee require the public officer, deputy or employee to travel from the public officer's, deputy's or employee's designated post of duty, the public officer, deputy or employee shall be allowed reimbursement of the expenses incurred for that travel.

B. The reimbursement of expenses shall be authorized by travel orders signed by the head of the department or agency, or by a person to whom that authority has been properly delegated.

C. Claims by public officers, deputies, and employees for reimbursement of expenses for transportation, lodging, meals and incidentals and long-term subsistence allowances shall be submitted on forms prescribed by and in the manner required by the department of administration

Board members should have the following forms on file with the School Facilities Board in order to receive Board or travel payments:

1. Personal Data Sheet
2. Arizona Form A-4 (tax withholding)
3. Federal W-4 (tax withholding)
4. Form I-9 (Employment Eligibility Verification including copies of pertinent verification, i.e. drivers license, social security card, etc.

Even if you do not qualify or have elected not to be compensated for your service we must still have these forms on file to represent a position number in the state human resources information system (HRIS).

At each board meeting a payment voucher will be provided to the members eligible for reimbursement. Travel claims can be turned in monthly or held and turned in less frequently, but at least once per fiscal year.

## **H. Board Member Public Service Orientation**

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Each Appointee will be notified by the Governor's Office of Boards and Commissions of this training; and must attend this Public Service Orientation. The training session will feature both legal experts and administration officials who share their experiences and provide valuable information relevant to board or commission membership.

ARS §38-592. A. The state shall conduct public service orientation programs so that all state officers and employees receive such training within six months after the date of hire, election or appointment. Each year after their training, all state officers and employees shall receive written information from the public entity responsible for providing the public service orientation program pursuant to subsection B, regarding changes in laws relating to the proper conduct of public business.

B. (4) The department of administration shall implement the public service orientation program for appointees and volunteers to all state agencies, departments, boards, commissions, committees and councils and for all other state employees.

### **I. Conflict of Interest**

All board members must submit a conflict of interest disclosure and have it on file with the School Facilities Board. A sample Conflict of Interest form is included in *Exhibit Item I I*.

ARS §38-591. 1. "Public service orientation programs" means educational training about laws relating to the proper conduct of public business, including laws relating to bribery, conflicts of interest, contracting with the government, disclosure of confidential information, discrimination, nepotism, financial disclosure, gifts and extra compensation, incompatible employment, misuse of public resources for personal gain, political activity by public employees, public access to records, open meeting laws and conduct after leaving one's position with the government.

### **J. Public Hearing Procedures** (Standard Practice since June 2004)

ARS §15-2002 (C)(9) requires the School Facilities Board's Executive Director to establish procedures for public hearings consistent with the notice and hearing requirements prescribed in ARS §15-905. The procedures prescribed in ARS §15-905 relate to public hearings on school district budgets. Staff, in consultation with the Board's legal counsel, has adapted the basic notice and hearing requirements of ARS §15-905 for the Board's use. The Board's procedures will apply to public hearings on appeals from prior Board decisions and to applications for land near military airports.

The procedures describe the manner in which a district may appeal an adverse Board decision, the Board's setting a noticing of a hearing, and holding a public hearing, consistent with A.R.S. §15-905 and 15-2002 (C)(9). The procedures also include required specific provisions that apply when a school district has requested funding for land near a military airport.

A school district may appeal the Board's denial of that school district's request for funding by filing with the Board a written Request for a Public Hearing within ten days of the Board's adverse decision. The request shall be addressed to the School Facilities Board at 1700 West Washington Street, Suite 230, Phoenix, Arizona 85007.

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Upon receipt of an appeal as described above, the Board shall promptly schedule a public hearing on the school district's appeal. (see A.R.S. § 15-2002 (C)(9)). A public hearing held pursuant to this Article shall be held on the same day and immediately before a Board meeting.

The Board shall post notice of the public hearings at least ten days before the hearing at the places where the Board's public meeting are generally posted, including on the Board's website. The Board shall also send notice of the hearing date to the school district by first-class mail at least ten days before the hearing. The Notice of Public Hearing is included in *Exhibit Item I. J.*

If the school district's request is for funding for land near a military airport (as defined in A.R.S. §28-8461), and if the Board has not already done so, it shall notify the military airport by first class mail of the school district's application at least thirty days before the public hearing .<sup>1</sup>

At the Hearing, the Board may allot a reasonable time for interested person to address the Board.

Decisions of the Board under this Article IV are appealable agency actions pursuant to A.R.S. § 41-1092.

### **K. Board Members' Electronic Communication and Relationship to the Open Meeting Law**

Board members have the option of establishing an e-mail address on the SFB network in order to receive e-mails directly from the public.

Per Attorney General Opinion No.I05-004 located in the *Appendix*: Board members must ensure that the board's business is conducted at public meetings and may not use e-mail to circumvent the OML requirements. When members of the public body are parties to an exchange of e-mail communications that involve discussions, deliberations or taking legal action by a quorum of the public body concerning a matter that may foreseeably come before the public body for action, the communications constitute a meeting through technological devices under the OML. While some one-way communications from one board member to enough members to constitute a quorum would not violate the OML, an e-mail by a member of a public body to other members of the public body that proposes legal action would constitute a violation of the OML.

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<sup>1</sup> [As a practical matter, the SFB should already have notified the airport and received the airport's input, if any, by the time of this public hearing, because the Board would have considered the request for land at a prior meeting.]